

### **REMARKS**

Applicants respectfully request reconsideration of this application in view of the above amendments and the following remarks. Currently, claims 1-5, 8-13, 16-21, and 36 are pending. Independent claim 1, for instance, is directed to a single sided elastic laminate capable of being rolled for storage and unwound from the roll when needed for use. The laminate comprises an elastic layer comprising continuous filament strands, a facing layer bonded to only one side of the elastic layer, and an adhesive that demonstrates an open time of between about 0.2 seconds and 3 seconds deposited between the elastic layer and the facing layer. The elastic laminate further comprises a layer which comprises a meltblown nonblocking agent applied to the elastic layer in an amount of between about 0.2 and 2.0 gsm, whereby the layer is not in contact with the facing layer or the adhesive when unwound. The layer which comprises the meltblown nonblocking agent is adhered to the elastic layer forming a not gathered layer.

### **35 USC § 103 Rejections**

In the Office Action, independent claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Mleziva (U.S. Patent No. 6,057,024) in view of Wang (U.S. Patent No. 4,460,728) and Owen ("Release Agents", Encyclopedia of Polymer Science and Technology) and Benoit (U.S. Patent No. 4,833,017).

Mleziva is directed to a composite elastic material. The composite elastic material is formed from an anisotropic elastic fibrous web **12** disposed between a first extensible layer **24** and a second extensible layer **28**. Col. 7, lines 17-44; Figs. 1 and 10.

In stark contrast to Mleziva, Applicants claim a single sided elastic laminate and

a facing layer bonded to only one side of said elastic layer. As noted in the specification,

while it would be desirable to reduce the basis weight of the stretch bonded laminate such that the material is less costly and more flexible, it has been heretofore unclear how to eliminate the extra facing layer(s) without causing the rolled material to stick, if it is stored prior to use. Pg. 3, lines 33-36.

As noted, Mleziva discloses that the fibrous web **12** is bonded to a first extensible layer **24** and a second extensible layer **28**. Mleziva does not provide any suggestion or motivation to construct a single sided elastic laminate wherein a facing layer is bonded to only one side of the elastic layer as disclosed and claimed by Applicants. Neither Wang, Owen, nor Benoit remedy this deficiency.

Additionally, the Office Action states,

Mleziva teaches one embodiment wherein meltblown fibers are formed directly on top of the extruded elastomeric filaments or alternatively, a layer of elastomeric meltblown fibers may be deposited on a foraminous surface and rows of elastomeric filaments formed directly upon the elastomeric meltblown fibers. (Col. 15, lines 1-15).

Applicants respectfully note that the excerpt of Mleziva identified by the Office Action is directed to forming the elastomeric anisotropic fibrous web **12** (composite **130** in Fig. 2). The composite is then still placed between a first extensible layer and a second extensible layer. As Mleziva notes, "whether or not the ribbon-shaped elements are coated with meltblown fibers, the adhesion between the elastomeric web **12** and the extensible layers **24** and **28** may be enhanced by coating the contact surface of each extensible layer with an adhesive resin." Col. 17, lines 22-26.

In stark contrast, Applicants disclose and claim "a layer which comprises a meltblown nonblocking agent applied to the elastic layer . . . which . . . is not in contact with said facing layer or said adhesive when unwound." As such, not only does Mleziva

not disclose this limitation, Mleziva actually teaches away from a meltblown layer that is not in contact with a facing layer or adhesive. Neither Wang, Owen, nor Benoit remedy this deficiency.

Additionally, as correctly noted in the Office Action, Mleziva fails to disclose a nonblocking agent or peel strengths less than 200 g (claim 3), 100 g (claim 4), or 50 g (claim 5). Nevertheless, in an attempt to render these claims obvious, the Office Action combines the base combination with Benoit. Benoit is directed to a cling wrap film (see Title). Benoit discloses that a thermoplastic film contains an antiblock agent mechanically bonded to one surface producing a film with significant cling properties on one surface and no significant cling property on the opposite surface.

First, Applicants note that independent claim 1 requires “a layer which comprises a meltblown nonblocking agent applied to the elastic layer.” Benoit, on the other hand, discloses impregnating powdered particulate into the film mechanically. Col. 5, lines 7-23. Second, Benoit applies a nonblocking agent to a film. Conversely, Applicants claim applying the nonblocking agent to the elastic layer that comprises continuous filament strands. Third, Benoit discloses cling wrap for use in packaging goods, pallet loads, etc. There is simply no motivation to one of ordinary skill in the art to look to modify one of the extensible layers of Mleziva (which is directed to use in garment materials, pads, diapers and personal care products – col. 1, lines 14-15) with the cling wrap of Benoit in an attempt to construct Applicants’ claimed invention. Fourth, in as much as Benoit is cited as disclosing Applicants’ claimed amount of nonblocking agent, Applicants note that the antiblocking agent of Benoit is a powdered particulate mechanically bonded to a film constructed of LLDPE (see pg. 17 of Applicants’ specification that discloses some

exemplary materials for use as the continuous filament strands). Applicants respectfully submit that there is simply no correlation that may be drawn from Benoit in an attempt to reach Applicants' claimed invention. One of ordinary skill in the art would not glean from Benoit to apply the amount of antiblock agent disclosed in Benoit to an elastic layer comprising continuous filament strands as claimed by Applicants.

Applicants respectfully submit that there is no motivation to combine the references in the manner suggested in the Office Action. Plainly, the Office Action's only incentive or motivation for so modifying the references in the manner suggested in the Office Action results from using Applicants' disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings in the prior art, which is improper under 35 U.S.C. § 103. Accordingly, it is respectfully submitted that any such modification of the cited references relies on the impermissible use of hindsight, which cannot be successfully used to support a *prima facie* case of obviousness.

As such, Applicants respectfully submit that, at least for the reasons indicated above, independent claim 1 patentably defines over the references cited. Applicants also respectfully submit that, at least for the reasons indicated above, the dependent claims 2-5, 8-13, 16-21, and 36 also patentably define over the references cited. The patentability of the dependent claims, however, certainly does not hinge on the patentability of the independent claims.

### **Double Patenting**

In the Office Action, claims 1-5, 8-13, 16-21 and 23-24 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 9, and 12 of Application No. 11/011439 and claims 1-20 of Application

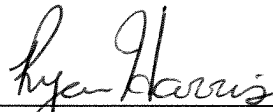
No. 11/070307. Applicants agree to submit a proper Terminal Disclaimer to obviate the rejection, if needed, at a time when the Application is otherwise in condition for allowance should the Examiner maintain the rejection.

As such, Applicants respectfully submit that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Steele is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Response.

Please charge any additional fees required by this Response to Deposit Account No. 04-1403.

Respectfully requested,

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